

JDG:TDK/AMC
F.#2012R00532

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA

- against -

OFER BITON,

Defendant.

S U P E R S E D I N G
I N F O R M A T I O N

Cr. No. 12-580 (S-1) (RRM)
(T. 18, U.S.C.,
§§ 1001(a)(3), 2 and 3551
et seq.)

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THE UNITED STATES ATTORNEY CHARGES:

INTRODUCTION

At all times relevant to this Information, unless
otherwise indicated:

1. Section 203(b)(5) of the Immigration and
Nationality Act permitted aliens to apply for a type of United
States visa (an "EB-5 Visa") after they invested at least
\$500,000 in commercial enterprises for the purpose of creating
employment for United States citizens or for immigrants who were
lawfully authorized to be employed in the United States.

2. To apply for an EB-5 Visa, an alien was required
to submit to United States Citizenship and Immigration Services
("CIS"), a division of the United States Department of Homeland
Security, a CIS Form I-526, Petition by Alien Entrepreneur. The
Form I-526 required applicants to provide information about the

source of the funds the applicant used to make the requisite investment in a commercial enterprise.

3. In or about May 2010, the defendant OFER BITON submitted to CIS a signed I-526 Petition and memorandum in support thereof (the "I-526 Petition and Memorandum"), certifying that BITON had invested \$500,000 in a business located in the United States, the name of which is known to the United States Attorney (the "Business").

4. The I-526 Petition and Memorandum stated that the source of \$400,000 of the defendant OFER BITON's \$500,000 investment in the Business was a loan to BITON from the personal funds of John Doe, an individual whose identity is known to the United States Attorney. In fact, BITON knew that this \$400,000 was funded by BITON himself and therefore was neither a loan from John Doe nor derived from John Doe's personal funds.


FALSE STATEMENT

5. The allegations in paragraphs one through four are realleged and incorporated as if fully set forth in this paragraph.

6. In or about May 2010, within the Southern District of New York, the defendant OFER BITON did knowingly and willfully make and use a false writing and document, knowing the same to contain one or more materially false, fictitious and fraudulent statements and entries, in a matter within the jurisdiction of

the executive branch of the Government of the United States, to wit: CIS, in that BITON certified in the I-526 Petition and Memorandum that the source of \$400,000 invested by BITON in the Business was a loan to BITON from the personal funds of John Doe, when, in fact, as BITON then and there well knew and believed, the \$400,000 BITON invested in the Business was funded by BITON himself and therefore was neither a loan from John Doe nor derived from John Doe's personal funds.

(Title 18, United States Code, Sections 1001(a)(3), 2 and 3551 et seq.)


LORETTA E. LYNCH
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK